

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 NANCY A. KAISER, State Bar No. 192083  
Deputy Attorney General  
4 California Department of Justice  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-5794  
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **DOROTHY ELIZABETH WILSON A.K.A.**  
14 **DOROTHY AGNES ELIZABETH BAUER**  
PO Box 3773  
Orange, CA 92865

15  
16 Registered Nurse License No. 297309  
Nurse Anesthetist Advanced Certification No.  
17 153

18 Respondent.

Case No.

2008-195

**A C C U S A T I O N**

19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H, R.N ("Complainant") brings this Accusation  
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
23 Department of Consumer Affairs.

24 2. On or about October 31, 1978, the Board of Registered Nursing,  
25 Department of Consumer Affairs issued Registered Nurse License No. 297309 to Dorothy  
26 Elizabeth Wilson a.k.a. Dorothy Agnes Elizabeth Bauer ("Respondent"). The Registered Nurse  
27 License was in full force and effect at all times relevant to the charges brought herein and will  
28

1 expire on April 30, 2008, unless renewed.

2           3.       On or about February 21, 1984, the Board of Registered Nursing,  
3 Department of Consumer Affairs issued Nurse Anesthetist Advanced Certification No. 153 to  
4 Respondent. The Nurse Anesthetist Advanced Certification was in full force and effect at all  
5 times relevant to the charges brought herein and will expire on April 30, 2008, unless renewed.

6                                   **JURISDICTION**

7           4.       This Accusation is brought before the Board of Registered Nursing,  
8 ("Board"), Department of Consumer Affairs, under the authority of the following laws. All  
9 section references are to the Business and Professions Code unless otherwise indicated.

10                                  **STATUTORY PROVISIONS**

11           5.       Section 2750 of the Business and Professions Code ("Code") provides, in  
12 pertinent part, that the Board may discipline any licensee, including a licensee holding a  
13 temporary or an inactive license, for any reason provided in Article 3 (commencing with section  
14 2750) of the Nursing Practice Act.

15           6.       Section 2764 of the Code provides that the expiration of a license shall not  
16 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee  
17 or to render a decision imposing discipline on the license. Under section 2811, subdivision (b),  
18 of the Code, the Board may renew an expired license at any time within eight years after the  
19 expiration.

20           7.       Section 2761 states, in part:

21                   The board may take disciplinary action against a certified or licensed  
22 nurse or deny an application for a certificate or license for any of the following:

23                   (a) Unprofessional conduct, which includes, but is not limited to, the  
24 following:

25                   (1) Incompetence, or gross negligence in carrying out usual certified or  
26 licensed nursing functions.

26                   . . . .

27                   (4) Denial of licensure, revocation, suspension, restriction, or any other  
28 disciplinary action against a health care professional license or certificate by  
another state or territory of the United States, by any other government agency, or  
by another California health care professional licensing board. A certified copy of

1 the decision or judgment shall be conclusive evidence of that action.

2 (d) Violating or attempting to violate, directly or indirectly, or assisting in  
3 or abetting the violating of, or conspiring to violate any provision or term of this  
4 chapter [chapter 6, commencing with section 2700] or regulations adopted  
5 pursuant to it.

## 6 REGULATORY PROVISIONS

7 8. California Code of Regulations, title 16, section 1443, states:

8 As used in Section 2761 of the code, "incompetence" means the lack of  
9 possession of or the failure to exercise that degree of learning, skill, care and  
10 experience ordinarily possessed and exercised by a competent registered nurse as  
11 described in Section 1443.5.

12 9. California Code of Regulations, title 16, section 1443.5, states:

13 A registered nurse shall be considered to be competent when he/she  
14 consistently demonstrates the ability to transfer scientific knowledge from social,  
15 biological and physical sciences in applying the nursing process, as follows:

16 (1) Formulates a nursing diagnosis through observation of the client's  
17 physical condition and behavior, and through interpretation of information  
18 obtained from the client and others, including the health team.

19 (2) Formulates a care plan, in collaboration with the client, which ensures  
20 that direct and indirect nursing care services provide for the client's safety,  
21 comfort, hygiene, and protection, and for disease prevention and restorative  
22 measures.

23 (3) Performs skills essential to the kind of nursing action to be taken,  
24 explains the health treatment to the client and family and teaches the client and  
25 family how to care for the client's health needs.

26 (4) Delegates tasks to subordinates based on the legal scopes of practice of  
27 the subordinates and on the preparation and capability needed in the tasks to be  
28 delegated, and effectively supervises nursing care being given by subordinates.

(5) Evaluates the effectiveness of the care plan through observation of the  
client's physical condition and behavior, signs and symptoms of illness, and  
reactions to treatment and through communication with the client and health team  
members, and modifies the plan as needed.

(6) Acts as the client's advocate, as circumstances require, by initiating  
action to improve health care or to change decisions or activities which are  
against the interests or wishes of the client, and by giving the client the  
opportunity to make informed decisions about health care before it is provided.

10. California Code of Regulations, title 16, section 1444, states, in part:

A conviction or act shall be considered to be substantially related to the

1 qualifications, functions or duties of a registered nurse if to a substantial degree it  
2 evidences the present or potential unfitness of a registered nurse to practice in a  
3 manner consistent with the public health, safety, or welfare. Such convictions or  
4 acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those  
violations listed in subdivision (d) of Penal Code Section 11160.

### 5 COST RECOVERY

6 11. Section 125.3, subdivision (a), states, in part:

7 Except as otherwise provided by law, in any order issued in resolution of a  
8 disciplinary proceeding before any board within the department . . . the board may  
9 request the administrative law judge to direct a licensee found to have committed  
a violation or violations of the licensing act to pay a sum not to exceed the  
reasonable costs of the investigation and enforcement of the case.

### 10 STATEMENT OF FACTS

11 12. On or about March 16, 2000, while employed as a Certified Registered  
12 Nurse Anesthetist (CRNA) by Dr. Joseph Mayer Bernstein's office, located in Whittier,  
13 California, Respondent administered anesthesia to patient M.L., a 32-year-old female, who was  
14 undergoing breast augmentation surgery. During the surgery, patient M.L. became apneic<sup>1</sup>,  
15 hypotensive<sup>2</sup>, and bradycardic<sup>3</sup>/asystolic<sup>4</sup>. Respondent was slow to intervene. Respondent did  
16 not monitor, manage and secure the airway in an expeditious manner, nor did she treat the blood  
17 pressure and heart rate by using atropine or epinephrine and CPR (cardiopulmonary  
18 resuscitation)/chest compressions according to Advanced Cardiac Life Support protocol. M.L.  
19 was intubated and paramedics transported her to Whittier Hospital Medical Center, where she  
20 was admitted to ICU and remained comatose for 14 hours. After two days, M.L. was transferred  
21 to Kaiser Permanente-Fontana, where she was discharged to home. She was later tested and  
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24 1. Apnea is the temporary absence or cessation of breathing.

25 2. Hypotensive means having abnormally low blood pressure.

26 3. Bradycardia is a slow heart rate, usually defined as less than 60 beats per minute.

27 4. Asystole is a dire form of cardiac arrest in which the heart stops beating and there is no  
28 electrical activity in the heart. The heart is at a total standstill.

1 diagnosed with anoxic<sup>5</sup> brain damage, with symptoms of memory loss, cognitive dysfunction and  
2 headache.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Gross Negligence)**

5 13. Respondent is subject to disciplinary action under section 2761,  
6 subdivision (a)(1), on the grounds of unprofessional conduct, in conjunction with California  
7 Code of Regulations, title 16, section 1442, in that on or about March 16, 2000, Respondent was  
8 grossly negligent in the care of patient M.L. by not intervening in an expeditious and appropriate  
9 manner when the patient became apneic, hypotensive and bradycardic/asystolic as a result of her  
10 anesthetic technique, as more fully described in paragraph 12, above. As a result of  
11 Respondent's actions/omissions, M.L. sustained anoxic brain damage.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Incompetence)**

14 14. Respondent is subject to disciplinary action under section 2761,  
15 subdivision (a)(1), on the grounds of unprofessional conduct, as defined in California Code of  
16 Regulations, title 16, sections 1443 and 1443.5, in that on or about March 16, 2000, Respondent  
17 failed to exercise the degree of learning, skill, care and experience ordinarily possessed and  
18 exercised by a competent registered nurse and certified registered nurse anesthetist with regard  
19 to the care of patient M.L., as more fully described in paragraphs 12 and 13, above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Disciplinary Action Against Podiatrist License)**

22 15. Respondent has subjected her license to disciplinary action under section  
23 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that Respondent's  
24 podiatrist license was disciplined by the California Board of Podiatric Medicine, as follows:

25 a. On or about February 26, 1999, a Decision and Order adopting a  
26 Stipulation in Settlement and Decision was entered against Respondent by the California Board  
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28 5. Anoxia means the absence or near absence of oxygen.

1 of Podiatric Medicine, Department of Consumer Affairs, in the Board matter entitled *In the*  
2 *Matter of the Accusation Against Dorothy E. Bauer, D.P.M.*, Case No. 1B-95-52549.  
3 Respondent's Doctor of Podiatric Medicine License No. E-3071 was revoked, revocation stayed,  
4 and placed on probation for a period of five years on various terms and conditions.

5           b.       On or about February 11, 2002, in the Board matter entitled *In the Matter*  
6 *of the Petition for Early Termination of Probation of Dorothy E. Bauer, DP.M.*, the Medical  
7 Board of California, Department of Consumer Affairs, issued a Decision and Order, denying  
8 Respondent's Petition for Early Termination of Probation, in connection with *In the Matter of*  
9 *Accusation Against: Dorothy E. Bauer, DP.M.*, Case No. 1B-95-52549.

10                                   **FOURTH CAUSE FOR DISCIPLINE**

11                                   **(Unprofessional Conduct)**

12           16.       Respondent has subjected her license to disciplinary action under section  
13 2761, subdivision (a), in that Respondent committed acts of unprofessional conduct, as more  
14 fully described in paragraphs 12 through 15, above.

15                                   **DISCIPLINARY CONSIDERATIONS**

16           17.       In order to determine the degree of discipline, if any, to be imposed on  
17 Respondent, Complainant alleges the following:

18           18.       In a medical malpractice action, Los Angeles Superior Court Case No. VC  
19 032684, entitled *Mary Lopez v. Joseph Mayer Bernstein, M.D. and Dorothy Wilson, CRNA*, the  
20 Statement of Decision found for the plaintiff with liability on the part of Respondent. Joseph  
21 Mayer Bernstein, M.D., the surgeon, was dismissed by all parties.

22                                   **PRAYER**

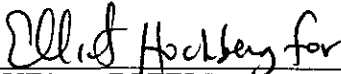
23           WHEREFORE, Complainant requests that a hearing be held on the matters herein  
24 alleged, and that following the hearing, the Board of Registered Nursing, Department of  
25 Consumer Affairs issue a decision:

26           1.       Revoking or suspending Registered Nurse License No. 297309, issued to  
27 Dorothy Elizabeth Wilson a.k.a. Dorothy Agnes Elizabeth Bauer;

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- 1                   2.       Revoking or suspending Nurse Anesthetist Advanced Certification No.  
2 153, issued to Dorothy Elizabeth Wilson a.k.a. Dorothy Agnes Elizabeth Bauer;  
3                   3.       Ordering Dorothy Elizabeth Wilson to pay the Board of Registered  
4 Nursing, Department of Consumer Affairs the reasonable costs of the investigation and  
5 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,  
6                   4.       Taking such other and further action as deemed necessary and proper.  
7

8 DATED: 12/18/07  
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11   
12 RUTH ANN TERRY, M.P.H., R.N  
13 Executive Officer  
14 Board of Registered Nursing  
15 State of California  
16 Complainant  
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